

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KEITH RUSSELL JUDD,) No. C 13-1218 LHK (PR)
Plaintiff,) ORDER OF DISMISSAL
vs.)
COMMISSIONER OF REVENUE, et al.,)
Defendants.)

)

On March 19, 2013, Plaintiff, a federal prisoner proceeding *pro se*, filed a civil complaint against the Commissioner of Revenue and the United States Department of Treasury. That same day, the Clerk notified Plaintiff that he had not paid the filing fee, nor had he filed an application to proceed in forma pauperis (“IFP”). Along with the deficiency notice, Plaintiff was provided with a new IFP application and instructions for completing it. Plaintiff was further cautioned that his failure to either file a completed IFP application or pay the filing fee within thirty days would result in the dismissal of this action.

Rather than complete the application or pay the filing fee, Plaintiff filed a motion requesting that the Court waive the filing fee costs because he was not “appearing in any capacity as a prisoner.” However, 28 U.S.C. § 1915 applies to all non-habeas civil filings. Ordinarily, a plaintiff is permitted to file a civil action in federal court without prepayment of fees or security if he submits an affidavit that he is unable to pay such fees or give security

1 therefor. *See* 28 U.S.C. § 1915(a). If the plaintiff is a “prisoner” who alleges that he is unable to
2 pay the full filing fee at the time of filing, he must submit (1) an affidavit that includes a
3 statement of all assets he possesses, and (2) a certified copy of his trust fund account statement
4 (or institutional equivalent) for the six-month period immediately preceding the filing of the
5 action, obtained from the appropriate official of each prison at which the prisoner is or was
6 confined. *See* 28 U.S.C. § 1915(a)(1),(2). Thus, Plaintiff was required to submit such
7 documents and failed to do so in a timely manner.

8 The instant action is DISMISSED without prejudice. The Clerk shall enter judgment and
9 close the file.

10 IT IS SO ORDERED.

11 DATED: 6/3/13



LUCY H. KOH
United States District Judge